IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.5689 OF 2003

The Commissioner of Central Excise,
Pune III, Pune & anr. .. Petitioners

v/s.

1. Kalyani Sharp (India) Ltd.
& anr. .. Respondents

Mr.A.J.Rana, senior counsel with Mr.P.S.Jetli and
Mr.H.V.Mehta i/by Mr.T.C.Kaushik for petitioners.

Mr.V.S.Nankani i/by Mr.N.S.Thacker for respondents.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 24th September, 2004

P.C.

We heard the learned senior counsel for the revenue and the learned counsel for the respondents.

2. Rule. Returnable forthwith. The writ petition is treated on Board for final hearing.

3. By consent, the impugned order dated 2.11.2002 passed by the Customs, Excise and Gold (Control) Appellate Tribunal, Mumbai, is set aside. The delay in making application by the revenue under section 35A(4) stands condoned. The Tribunal shall now hear the said application made by the revenue under section 35A(4) on its own merits.

4. Liberty to the parties to apply to the Tribunal for hearing the said application alongwith the appeals preferred by the respondents for the subsequent period.

5. Rule is disposed of in terms aforesaid. No costs.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)